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98TH CONGRESS
1ST SESSION

H. R. 220

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To amend title 5, United States Code, to make regulations more cost-effective, to ensure review of rules, to improve regulatory planning and management, to enhance public participation in the regulatory process, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 1983

Mr. LEVITAS (for himself, Mr. SAM B. HALL, JR., and Mr. KINDNESS) introduced the following bill; which was referred jointly to the Committees on the Judiciary and Rules

A BILL

To amend title 5, United States Code, to make regulations more cost-effective, to ensure review of rules, to improve regulatory planning and management, to enhance public participation in the regulatory process, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SHORT TITLE

4 SECTION 1. This Act may be cited as the "Regulatory
5 Procedure Act of 1982".

TABLE OF TITLES

TITLE I—THE ANALYSIS, MANAGEMENT, AND ORGANIZATION OF
AGENCY FUNCTIONS

TITLE II—REORGANIZING AND IMPROVING AGENCY PROCEEDINGS

1 EFFECTIVE DATE

2 SEC. 2. This Act shall take effect one hundred and
3 eighty days after the date of the enactment of this Act,
4 except that the provisions of subchapter II of chapter 6 of
5 title 5, United States Code, as added by section 101(c) of this
6 Act, the amendment made by section 201(a) of this Act, and
7 the amendment made by section 203 of this Act (to the
8 extent such amendment applies to rules) shall apply only to
9 rules for which notice of proposed rulemaking is given after
10 such effective date and to rules promulgated after such effec-
11 tive date for which a notice of proposed rulemaking is not
12 required.

13 TITLE I—THE ANALYSIS, MANAGEMENT, AND
14 ORGANIZATION OF AGENCY FUNCTIONS

15 SEC. 101. (a) ~~Chapter 6 of title 5, United States Code,~~
16 is amended—

17 (1) by inserting immediately after the chapter
18 heading the following:

19 “SUBCHAPTER I—REGULATORY FLEXIBILITY”;

20 (2) by inserting immediately before section 601
21 the following:

1 "SUBCHAPTER I—REGULATORY FLEXIBILITY";

2 and

3 (3) by striking out "this chapter" each place it ap-
4 pears and inserting in lieu thereof "this subchapter".

5 (b) Such chapter 6 is further amended by inserting at
6 the end of the chapter analysis the following:

"SUBCHAPTER II—ANALYSIS OF AGENCY PROPOSALS

"Sec.

"621. Definitions.

"622. Additional procedures for major rules.

"623. Judicial review.

"624. Executive oversight.

"625. Review by Comptroller General.

"626. Authority of agencies and the President.

"SUBCHAPTER III—ESTABLISHING AGENCY PRIORITIES AND
SCHEDULES FOR COMPLETING PROCEEDINGS

"631. Regulatory agenda.

"SUBCHAPTER IV—AGENCY REVIEW OF RULES

"641. Review of rules."

7 (c) ~~Such chapter 6 is further amended by adding at the~~
8 ~~end thereof the following:~~

9 "SUBCHAPTER II—ANALYSIS OF AGENCY
10 PROPOSALS

11 ~~"621. Definitions~~

12 "(a) ~~For purposes of this subchapter, subchapter III,~~
13 ~~and subchapter IV,~~

14 "(1) the term 'agency' means an agency as de-
15 fined in section 551(1) of this title;

16 "(2) the term 'benefit', except as used in subsec-
17 tion (b)(2)(B) of this section, means any direct or indi-

1 rect beneficial economic, health, safety, environmental,
2 or other effect;

3 “(3) the term ‘cost’ means any direct or indirect
4 adverse economic, health, safety, environmental, or
5 other effect;

6 “(4) the term ‘economic cost’ means a cost (as de-
7 fined in paragraph (3) of this subsection) that is reason-
8 ably quantifiable in monetary terms;

9 “(5) the term ‘rule’ means a rule as defined in
10 **section 551(4) of this title but does not include—**

11 “(A) a rule of particular applicability relating
12 to rates, wages, corporate or financial structures
13 or reorganizations thereof, prices, facilities, appli-
14 ances, services, or allowances therefor or to valu-
15 ations, costs or accounting, or practices relating
16 to such rates, wages, structures or reorganiza-
17 tions, prices, facilities, appliances, services, or al-
18 lowances;

19 “(B) a rule relating to monetary policy pro-
20 posed or promulgated by the Board of Governors
21 of the Federal Reserve System;

22 “(C) a rule that is required by statute to be
23 made on the record after an opportunity for an
24 agency hearing; or

↑

2 [REDACTED],

5 “(A) imposes economic costs which are likely
6 to result in an annual impact on the economy of
7 \$100,000,000 or more; or

“(i) because the rule would have significant adverse effects on the environment, health or safety, competition, employment, investment, productivity, innovation, or the ability of enterprises, the principal places of business of which are in the United States, to compete in domestic or export markets; or

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1 “(b)(1) Any designation of a major rule made by the
2 President under subsection (a)(6)(B) of this section shall be
3 published in the Federal Register, together with a succinct
4 statement of the basis for the designation. The President may
5 not delegate his authority to make such a designation.

6 “(2) The term ‘major rule’ as defined in subsection
7 (a)(6)(A) of this section does not include—

8 “(A) a rule involving the internal revenue laws of
9 the United States;

10 “(B) a rule relating to public loans, grants, or
11 benefits;

12 “(C) a rule relating to the viability, stability, asset
13 powers, or categories of accounts of, or permissible in-
14 terest rate ceilings applicable to depository institutions,
15 the deposits or accounts of which are insured by the
16 Federal Deposit Insurance Corporation, the Federal
17 Savings and Loan Insurance Corporation, or the Share
18 Insurance Fund of the National Credit Union Adminis-
19 tration Board;

20 “(D) a rule promulgated under the Agricultural
21 Adjustment Act to encourage or to regulate the orderly
22 marketing of agricultural commodities and products, or
23 a rule promulgated under the Agriculture Act of 1949
24 to make available price support for agricultural com-
25 modities and products; or

1 “(E) a rule promulgated on an annual basis which
2 governs the hunting of migratory birds.

3 **“§ 622. Additional procedures for major rules**

4 “(a) Before providing notice of proposed rulemaking for
5 any rule, the agency proposing the rule shall determine
6 whether the rule is a major rule and shall include in that
7 notice an explanation of that determination.

8 “(b) Not later than the date on which an agency pro-
9 vides notice of proposed rulemaking for a major rule (or, in
10 the case of a rule designated by the President under section
11 621(a)(6)(B) of this title, as soon as reasonably practicable
12 after such designation), the agency shall issue—

13 “(1) a statement of the need for, and objectives of,
14 the proposed rule;

15 “(2) a description of those reasonable alternatives
16 to the proposed rule and its main elements that may
17 accomplish the stated objectives of the proposed rule in
18 a manner consistent with the applicable statutes, and,
19 if the proposed rule does not have lower economic
20 costs than each such alternative, an identification of
21 such alternative which has the lowest economic costs;

22 “(3) an analysis of the need, if any, for the estab-
23 lishment or application of requirements in the proposed
24 rule in order to accommodate regional differences, in-

1 cluding economic, environmental, demographic, and
2 land-use differences;

3 “(4) an analysis of the benefits and costs of the
4 proposed rule and of each of the principal alternatives
5 described in paragraph (2) (including, where applicable,
6 the alternative identified in such paragraph having the
7 lowest economic costs) and a comparison of the cost ef-
8 fectiveness of the proposed rule and each of the princi-
9 pal alternatives;

10 “(5) an analysis, where applicable, of the relative
11 advantages and disadvantages of adopting performance
12 standards rather than design standards in the proposed
13 rule;

14 “(6)(A) an identification of any scientific, econom-
15 ic, or other technical report or study upon which the
16 agency has relied substantially or expects to rely sub-
17 stantially in the rulemaking; and

18 “(B) a description of how the agency has evaluat-
19 ed or intends to evaluate the quality, reliability, accu-
20 racy, and relevance of any such scientific or economic
21 report or study; and

22 “(7) if the proposed rule would regulate activities
23 which, before the rule was proposed, were regulated
24 only by State law, a statement of the legal authority
25 for the agency to regulate such activities.

1 “(c) Not later than the date on which an agency pro-
2 vides notice of the promulgation of a major rule, the agency
3 shall issue—

4 “(1) a statement of the need for, and the objec-
5 tives of, the rule;

6 “(2) a description of those alternatives to the rule
7 with respect to which an analysis was made pursuant
8 to subsection (b)(4);

9 “(3) an analysis of the extent to which the re-
10 quirements of the rule reflect regional differences, in-
11 cluding economic, environmental, demographic, and
12 land-use differences;

13 “(4) an analysis of the benefits and costs of the
14 rule;

15 “(5) an analysis of the extent to which the bene-
16 fits of the rule justify its costs, and, if they do not, an
17 explanation of why the agency adopted the rule;

18 “(6)(A) an explanation of how the rule attains its
19 objectives, in a manner consistent with applicable stat-
20 utes, with lower economic costs than the other alterna-
21 tives analyzed pursuant to subsection (b)(4) of this sec-
22 tion; or

23 “(B) if the rule does not do so, a statement of the
24 agency’s reasons for selecting the rule rather than such
25 alternatives;

1 “(7) an explanation, where applicable, for the
2 adoption of design standards rather than performance
3 standards in the rule;

4 “(8)(A) an identification of any scientific, econom-
5 ic, or other technical report or study upon which the
6 agency relied substantially in the rulemaking; and

7 “(B) a description of how the agency evaluated
8 the quality, reliability, accuracy, and relevance of any
9 such scientific or economic report or study; and

10 “(9) if the rule regulates activities which, before
11 the issuance of the rule, were regulated only by State
12 law, a statement of the legal authority for the agency
13 to regulate such activities.

14 “(d)(1) In lieu of preparing material required by subsec-
15 tion (b) or (c) of this section, an agency may incorporate by
16 reference in any material that it issues pursuant to either
17 such subsection information contained in any other statement
18 or analysis, to the extent that such information satisfies any
19 of the requirements of either such subsection.

20 “(2) Each agency shall include, in the notice of each
21 proposed and final major rule, a statement of how the public
22 may obtain copies of the material issued pursuant to subsec-
23 tions (b) and (c). An agency may charge a reasonable fee for
24 the copying and mailing of such material. Such material shall
25 be furnished without charge or at a reduced charge where the

1 agency determines that waiver or reduction of the fee is pri-
2 marily of benefit to the general public.

3 “(3) Subject to section 553(f)(2) of this title, each
4 agency shall include in the rulemaking file required by sec-
5 tion 553(f) of this title—

6 “(A) a copy of the material issued pursuant to
7 subsections (b) and (c) of this section and of any tran-
8 script prepared pursuant to subsection (e) of this sec-
9 tion; and

10 “(B) a copy of any scientific, economic, or other
11 technical report or study that the agency actually con-
12 sidered in connection with the rulemaking, if informa-
13 tion in such report or study pertains directly to the
14 rulemaking and was prepared by officers or employees
15 of the agency or under contract with the agency.

16 “(4) Each agency shall send to the President a copy of
17 all material issued pursuant to subsection (b) or (c) of this
18 section.

19 “(e)(1) An agency shall, in the case of rulemaking to
20 promulgate a major rule, provide an opportunity for oral
21 presentation of views and information at informal public hear-
22 ings. Transcripts shall be made of all such public hearings.

23 “(2) The agency shall permit cross-examination of indi-
24 viduals who present testimony, documents, or studies at such
25 hearings but only to the extent the agency determines that

1 other procedures would be inadequate for resolution by the
2 agency of significant issues of fact upon which the rule is
3 based. This paragraph shall not apply to any rulemaking for
4 which cross-examination is otherwise required by statute.

5 “(3) The agency shall regulate the course of informal
6 public hearings required by this subsection so as to ensure
7 orderly and expeditious proceedings. The agency may take
8 such actions as it considers necessary to achieve this objec-
9 tive, including—

10 “(A) limiting the time allowed for oral presenta-
11 tions and cross-examination;

12 “(B) establishing procedures designed to limit
13 cross-examination to the significant issues of fact re-
14 ferred to in paragraph (2) of this subsection; and

15 “(C) designating representatives to make oral
16 presentations or engage in cross-examination on behalf
17 of persons with a common interest in the rulemaking.

18 “(f) An agency may delay complying with any require-
19 ment of this section with respect to a rule if—

20 “(A) the agency finds, for good cause, that com-
21 plying with such requirement before making the rule
22 effective would be impracticable, unnecessary, or con-
23 trary to the public interest; and

1 “(B) the agency publishes the rule in the Federal
2 Register with a statement of such finding and a suc-
3 cinct explanation of the reasons therefor.

4 Unless such a rule will, by its terms, cease to be effective
5 within two years after its effective date, the agency shall
6 comply with the requirements of this section with respect to
7 the rule as soon as reasonably practicable after promulgating
8 the rule.

9 “(g) The requirements of this section do not change the
10 standards applicable to agency action under any other provi-
11 sion of law or relieve an agency of procedural requirements
12 imposed by any other provision of law.

13 **“§ 623. Judicial review**

14 “(a) In any action for judicial review of a rule, any ma-
15 terial issued under section 622 of this title may, to the extent
16 relevant, be considered by the court in determining the law-
17 fulness of the rule, but (except as provided in subsections (b)
18 and (c) of this section) the court shall not have any authority
19 to review agency compliance or noncompliance with the re-
20 quirements of this subchapter or subchapter III or IV, or to
21 compel any action by the agency promulgating the rule or to
22 hold unlawful, set aside, or remand the rule on the ground
23 that the agency has failed to comply with one or more of such
24 requirements.

1 “(b)(1) Subsection (a) of this section does not prohibit a
2 court from holding unlawful, setting aside, remanding, or
3 staying a rule because of a failure of the agency to follow a
4 procedure required by section 622(e) of this title if—

5 “(A) an objection to the failure to follow the pro-
6 cedure was made to the agency in a timely fashion or
7 there are extraordinary circumstances that excuse the
8 failure to present such a timely objection, and

9 “(B) the court finds that such failure was so seri-
10 ous and of such central relevance to the rule that there
11 is a substantial likelihood that the rule would have
12 been significantly changed if the procedure omitted by
13 the agency had been followed.

14 “(2) To the extent that compliance with applicable pro-
15 visions of section 622 of this title is required by the last sen-
16 tence of section 622(f), a court may direct an agency to issue
17 material required by sections 622(b) and 622(c) and to
18 comply with section 622(e) if the court finds that the agency
19 has unreasonably delayed complying with the applicable re-
20 quirements of section 622.

21 “(3) If an agency has failed to issue any material what-
22 soever which it designates as having been issued in compli-
23 ance with paragraph (5) or (6) of section 622(c) of this title
24 for a rule that has been determined or designated to be
25 ‘major’ under section 621(a)(6) of this title, nothing in subsec-

1 tion (a) of this section prohibits a court from remanding the
2 rule to the agency with instructions to issue the material re-
3 quired by either such paragraph.

4 “(c) If the court finds that an agency has unreasonably
5 delayed publishing a proposed schedule required by section
6 641(a)(1), a final schedule required by section 641(a)(4), a
7 notice required by section 641(c), or a notice required by sec-
8 tion 641(e), subsection (a) of this section does not prohibit the
9 court from directing the agency to comply with such require-
10 ment.

11 “(d) Any exercise of authority granted under section
12 621, 624, or 641 of this title, or any failure to exercise such
13 authority, by the President or by an officer to whom such
14 authority has been delegated, shall not be subject to judicial
15 review in any manner.

16 **“§ 624. Executive oversight**

17 “(a) The President shall establish guidelines and proce-
18 dures for agency implementation of the requirements of this
19 chapter. The President shall monitor and review agency ac-
20 tions and materials for compliance with the provisions of this
21 chapter and shall comment upon the adequacy of such com-
22 pliance.

23 “(b) Any guidelines and procedures established by the
24 President for agency implementation of this chapter shall be
25 adopted after the public has been afforded notice and an op-

1 portunity to comment thereon, and shall be consistent with
2 the prompt completion of rulemaking proceedings. Such
3 guidelines and procedures may provide for review and evalu-
4 ation by the President of material the agency intends that it
5 will issue under sections 622(b) and 622(c) of this title in
6 order to comment upon whether such material complies with
7 the requirements of this chapter. The time for any such
8 review shall not exceed thirty days following receipt of the
9 material by the President, except that the President may
10 extend the time for such review for one additional period not
11 in excess of thirty days.

12 “(c) Nothing in this section—

13 “(1) provides authority to the President, or limits
14 any authority that the President may possess under the
15 Constitution or other provisions of law—

16 “(A) to prevent an agency from proceeding
17 with a rulemaking or issuing a proposed or final
18 rule; or

19 “(B) to require an agency to modify a pro-
20 posed or final rule or comply with the guidelines
21 or procedures established pursuant to subsection
22 (a) of this section;

23 “(2) changes the standards applicable to agency
24 action under any other provision of law or relieves an

1 agency of procedural requirements imposed by any
2 other provision of law; or

3 “(3) relieves an agency of its responsibilities to
4 comply with the requirements of this chapter.

5 “(d)(1) The President may delegate the authority grant-
6 ed by subsection (a) of this section, in whole or in part, to the
7 Vice President or to an officer within the Executive Office of
8 the President whose appointment has been subject to the
9 advice and consent of the Senate. Notice of any such delega-
10 tion, or any revocation or modification thereof, shall be pub-
11 lished in the Federal Register.

12 “(2) Any person to whom authority is delegated under
13 this subsection shall be subject to all of the provisions of this
14 section applicable to the exercise of such authority by the
15 President.

16 **“§ 625. Review by Comptroller General**

17 “(a) The Comptroller General of the United States may
18 review the compliance by agencies with the provisions of this
19 chapter.

20 “(b) Each agency shall make available to the Comptrol-
21 ler General, in accordance with section 716 of title 31,
22 United States Code, such information as the Comptroller
23 General may request in order to carry out subsection (a).

24 **“§ 626. Authority of agencies and the President**

25 “(a) Nothing in this chapter—

1 “(1) limits agency jurisdiction to prescribe a rule,

2 “(2) relieves an agency of statutory requirements
3 applicable to rulemaking, or

4 “(3) displaces rulemaking authority vested by
5 statute in an agency.

6 “(b) Nothing in this chapter limits the exercise by the
7 President of the authority and responsibility that he other-
8 wise possesses under the Constitution and other laws of the
9 United States.

10 “SUBCHAPTER III—ESTABLISHING AGENCY PRI-
11 ORITIES AND SCHEDULES FOR COMPLETING
12 PROCEDURES

13 “§ 631. **Regulatory agenda**

14 “(a) Each agency shall publish a regulatory agenda in
15 the Federal Register in April and October of each year. Each
16 such agenda shall contain a list of all rules that the agency
17 expects to propose, promulgate, modify, repeal, or otherwise
18 consider in a rulemaking proceeding in the succeeding twelve
19 months. The agendas of all agencies shall be published in a
20 single issue of the Federal Register in accordance with guide-
21 lines issued by the Director of the Office of Management and
22 Budget to ensure a useful, uniform, and consistent publica-
23 tion.

24 “(b) With respect to each rule listed on a regulatory
25 agenda, the agenda shall include a description of the rule; the

1 objectives of and the legal basis for the rule; any dates estab-
2 lished or anticipated by the agency for taking action, includ-
3 ing dates for advance notices of proposed rulemaking, notices
4 of proposed rulemaking, and final agency action; a statement
5 of the sectors of the economy likely to be affected by the rule;
6 and the agency's assessment of whether the rule is or is ex-
7 pected to be a major rule. If consistent with any guidelines
8 issued by the Office of Management and Budget, an agency
9 may consider a group of closely related rules as one rule for
10 the purpose of providing the information required by this sub-
11 section.

12 “(c) Each regulatory agenda shall include a list of rules
13 scheduled to be reviewed in accordance with section 641 of
14 this title during the succeeding twelve months and the status
15 of all rules listed on the previous agenda for which rulemak-
16 ing proceedings have not been completed or which have not
17 been explicitly withdrawn from consideration by the agency.

18 “(d) Each regulatory agenda shall include the name, ad-
19 dress, and telephone number of an agency official responsible
20 for handling inquiries about each rule listed on the agenda.

21 “(e) Failure of an agency to include a rule in a regula-
22 tory agenda shall not preclude the agency from proposing or
23 issuing that rule.

1 “SUBCHAPTER IV—AGENCY REVIEW OF RULES

2 “§ 641. Review of rules

3 “(a)(1) Not later than nine months after the effective
4 date of this section, each agency shall prepare and publish in
5 the Federal Register for comment a proposed schedule for
6 the review, in accordance with this section, of each rule of
7 the agency which is in effect on such effective date and
8 which, if adopted on such effective date, would be a major
9 rule under section 621(a)(6)(A) of this title, and of such other
10 rules as the agency has selected for review.

11 “(2) At least ninety days before publishing in the Feder-
12 al Register the proposed schedule required by paragraph (1),
13 each agency shall make the proposed schedule available to
14 the President. The President may select for review under this
15 section any additional rule that the President determines to
16 be a major rule under section 621(a)(6)(A) of this title. The
17 President may not delegate the authority conferred by this
18 paragraph.

19 “(3) Each proposed schedule required by paragraph (1)
20 shall include a brief explanation of the reasons the agency or
21 the President, as the case may be, considers each rule on the
22 schedule to be a major rule or of the reasons why the agency
23 selected the rule for review, and the date set by the agency
24 for the completion of the review of each such rule. The
25 review of all rules on the schedule shall be completed not

1 more than ten years after the date on which the final sched-
2 ule is published pursuant to paragraph (4) of this subsection.
3 The agency shall set a date to initiate review of each rule on
4 the schedule in a manner which will ensure the simultaneous
5 review of related items and which will achieve a reasonable
6 distribution of reviews over the period of time covered by the
7 schedule.

8 “(4) Not later than six months after publishing the pro-
9 posed schedule as required by paragraph (1) of this subsec-
10 tion, each agency shall publish in the Federal Register a final
11 schedule for the review of the rules referred to in paragraphs
12 (1) and (2) of this subsection. Each agency shall publish with
13 the final schedule the response of the agency to comments
14 received concerning the proposed schedule.

15 “(5) Each agency shall include with the publication in
16 the Federal Register of a major rule a date for completion of
17 the review of the major rule. The agency shall set such date
18 at not more than ten years after the date of such publication.

19 “(b) The agency shall, pursuant to subsections (c)
20 through (e) of this section, review each rule on the final
21 schedule. A rule designated by an agency for review as a
22 major rule need not be reviewed if, at the time of the planned
23 review, the agency determines that such rule, if adopted on
24 the date on which the planned review is to be initiated, would

1 not be a major rule and publishes a notice and explanation of
2 that determination in the Federal Register.

3 “(c) An agency shall publish notice in the Federal Reg-
4 ister of the initiation of the review of a rule under this sec-
5 tion. The notice shall include—

6 “(1) an identification of the legal authority under
7 which the rule was promulgated and a determination
8 by the agency of whether the rule presently fulfills the
9 objectives of that authority;

10 “(2) a brief summary of the benefits and costs of
11 the rule during the calendar year preceding the publi-
12 cation of such notice, and of the benefits and costs the
13 agency projects for the rule if it remains in effect;

14 “(3) an analysis of whether the objectives of the
15 rule can be met through an alternative having lower
16 economic costs than the existing rule;

17 “(4) an analysis of whether greater benefits can
18 be achieved through an alternative having costs which
19 are comparable to those of the existing rule;

20 “(5) a description of any problems encountered by
21 the agency in obtaining compliance with the rule;

22 “(6) an analysis of the extent to which the rule
23 overlaps or duplicates other rules; and

1 “(7) a statement that the agency seeks comments
2 from the public as to whether the rule should be re-
3 tained, amended, or repealed.

4 An agency may include a group of closely related rules in a
5 single notice under this subsection.

6 “(d) After publishing the notice required by subsection
7 (c) of this section, the agency shall provide a period of not
8 less than sixty days during which the public may submit com-
9 ments in response to such notice.

10 “(e) Within one hundred and eighty days after the close
11 of the comment period required by subsection (d) of this sec-
12 tion, the agency shall take one of the following two actions:

13 “(1) The agency shall publish a notice of proposed
14 rulemaking to repeal or amend the rule and shall con-
15 duct a rulemaking proceeding with respect to the rule
16 in accordance with the requirements of this chapter, if
17 applicable, and of section 553 of this title or any other
18 applicable law. Such requirements and other applicable
19 requirements of law, including those relating to judicial
20 review, shall apply to the same extent and in the same
21 manner as in the case of a proposed agency action to
22 repeal or amend a rule which is not taken pursuant to
23 the review required by this section.

24 “(2) The agency shall publish a notice of its deci-
25 sion to retain the existing rule along with a statement

1 responding to the significant issues that were raised in
2 the public comments received concerning the rule pur-
3 suant to subsection (d) of this section.

4 “(f)(1) Any agency which finds compliance with this sec-
5 tion with respect to a particular rule to be impracticable
6 during the period provided in subsection (a)(3) or (a)(5) of this
7 section may request the President to establish a period longer
8 than ten years for the completion of the review of such rule.
9 The President may extend the period for review of a rule to a
10 total period of not more than fifteen years. Such extension
11 shall be published in the Federal Register with an explana-
12 tion of the reasons therefor.

13 “(2) An agency may, with the concurrence of the Presi-
14 dent, alter the timing of review of rules under this section if
15 an explanation of such alteration is published in the Federal
16 Register at the time such alteration is made. The President
17 may direct an agency to alter the timing of the review of
18 rules under this section, except that the President may not
19 increase the number of rules to be reviewed by one agency in
20 any calendar year.”.

21 (d) The chapter heading of chapter 6 of title 5, United
22 States Code, is amended to read as follows:

1 **“CHAPTER 6—PLANNING AND MANAGEMENT OF**
 2 **AGENCY FUNCTIONS”.**

3 (e) The chapter analysis of part I of title 5, United
 4 States Code, is amended by inserting after the item relating
 5 to chapter 5 the following new item:

“6. Planning and Management of Agency Functions..... 601”.

6 **TITLE II—REORGANIZING AND IMPROVING**
 7 **AGENCY PROCEEDINGS**

8 **RULEMAKING PROCEDURES**

9 ~~Section 551. (a) [REDACTED], United States~~
 10 ~~[REDACTED]~~

11 **“§ 553. Rulemaking**

12 **“(a) [REDACTED] according to the provisions**
 13 ~~[REDACTED], except in the cases that there is involved—~~

14 **“(1) [REDACTED] or foreign affairs function of the**
 15 ~~United States; ?~~

16 **“(2) a matter relating to public property or con-**
 17 **tracts or to agency management or personnel practices;**
 18 **or**

19 **“(3) any interpretative rule or general statement**
 20 **of policy unless such rule or statement has general ap-**
 21 **plicability and substantially alters or creates rights or**
 22 **obligations of persons outside the agency.**

23 **“(b)(1) Notice of proposed rulemaking shall be published**
 24 **in the Federal Register, unless persons subject to the pro-**
 25 **posed rule are named and either personally served or other-**

1 wise have actual notice of the rulemaking in accordance with
2 law. Each notice of proposed rulemaking shall include—

3 “(A) a statement of the time during which public
4 comments will be received concerning the proposed
5 rule, and the time, place, and nature of any informal
6 public hearings to be held concerning the proposed
7 rule;

8 “(B) a statement of the specific objectives to be
9 attained by the proposed rule;

10 “(C) a statement of the specific legal authority
11 under which the rule is proposed;

12 “(D) either the terms or substance of the proposed
13 rule or a description of the subjects and issues in-
14 volved;

15 “(E) a statement that the agency seeks proposals
16 from the public for alternative methods to accomplish
17 the objectives of the proposed rule that are more effec-
18 tive or less burdensome than the methods used in the
19 proposed rule; and

20 “(F) a statement of where the file of the rulemak-
21 ing proceeding required by subsection (f) of this section
22 may be inspected or copies of the file may be obtained.

23 “(2) Except when notice or hearing is required by stat-
24 ute, this subsection and subsection (c) do not apply to rules of
25 agency organization, procedure, or practice, or a rule to the

1 extent the agency for good cause finds that notice and public
2 procedure with respect to the rule are impracticable, unnec-
3 essary, or contrary to the public interest and publishes, at the
4 time of publication of the final rule, such finding and a brief
5 statement of the reasons therefor.

6 “(c)(1) An agency shall provide a public comment period
7 of at least sixty days after the issuance of a notice of pro-
8 posed rulemaking pursuant to subsection (b). During the
9 public comment period, the agency shall give interested per-
10 sons an opportunity to participate in the rulemaking through
11 submission of written data, views, or arguments with or with-
12 out opportunity for oral presentations. After the consideration
13 of the relevant matter presented, the agency shall publish
14 any rule adopted with a concise general statement of the
15 basis and purpose of the rule. The statement shall include a
16 response to the significant issues raised by the comments
17 concerning the proposed rule received by the agency during
18 the public comment period. When rules are required by stat-
19 ute to be made on the record after an opportunity for an
20 agency hearing, sections 556 and 557 of this title apply in-
21 stead of this subsection.

22 “(2) In promulgating a rule, unless otherwise permitted
23 by law, an agency may not rely substantially on any report,
24 study, or other document containing significant factual mate-
25 rial of central relevance to the rulemaking that was not

1 placed in the rulemaking file at the time the notice of pro-
2 posed rulemaking was issued or, if publicly available, identi-
3 fied in such notice, unless—

4 “(A) the public has had an adequate opportunity
5 to comment upon such report, study, or other docu-
6 ment if it was developed by or under contract with the
7 agency; or

8 “(B) such report, study, or other document, if not
9 developed by or under contract with the agency, was
10 placed in the rulemaking file required by subsection (f)
11 of this section promptly after—

12 “(i) its receipt by the agency, in the case of
13 material received by the agency in the course of
14 the rulemaking proceeding, or

15 “(ii) its review by the agency, in the case of
16 material that was obtained by the agency outside
17 the course of the rulemaking proceeding.

18 For purposes of subparagraph (A) of this paragraph, an
19 agency shall be deemed to have afforded an adequate oppor-
20 tunity to comment on any document received during or after
21 the initial comment period if it provides an additional com-
22 ment period of twenty-one days from the date on which
23 notice of such additional comment period is published in the
24 Federal Register.

1 “(d) An agency issuing a final rule shall publish that
2 rule in the Federal Register, unless persons subject to the
3 rule are named and either personally served or otherwise
4 have actual notice of the rule in accordance with law. Such
5 publication or service shall be made not less than thirty days
6 before the effective date of the final rule, except in the case of
7 a rule that grants or recognizes an exemption or relieves a
8 restriction, or as otherwise provided by the agency for good
9 cause found and published with the rule.

10 “(e) Each agency shall give an interested person the
11 right to petition for the issuance, amendment, or repeal of a
12 rule.

13 “(f)(1) Except as provided in paragraph (2) of this sub-
14 section, each agency shall maintain a file of each rulemaking
15 proceeding conducted pursuant to this section, beginning no
16 later than the date on which the agency issues the notice of
17 proposed rulemaking for that proceeding pursuant to subsec-
18 tion (b) or, if the agency is not required to issue such a notice,
19 no later than the date the agency first issues or receives ma-
20 terial required to be included in the file. The file shall be
21 made available to the public and shall include—

22 “(A) the notice of proposed rulemaking and any
23 supplemental notice concerning the rulemaking;

1 “(B) a copy of all written comments on the pro-
2 posed rule which were submitted to the agency after
3 the publication of the notice of proposed rulemaking;

4 “(C) all material which the agency by statute or
5 rule is required to issue in connection with the rule-
6 making or which the agency decides to make part of
7 the record;

8 “(D) a copy of all written material pertaining to
9 the rule including any drafts of the proposed or final
10 rule, submitted by the agency to the President or the
11 designee directed by the President to review proposed
12 or final rules for their regulatory impact; and

13 “(E) a written explanation of the specific reasons
14 for any significant changes made by the agency in the
15 drafts of the proposed or final rule which respond to
16 any comment received by the agency on the draft pro-
17 posed, proposed draft final, or final rule, made by the
18 President or the designee directed by the President to
19 review proposed or final rules for their regulatory
20 impact.

21 “(2) The file required by paragraph (1) of this subsection
22 need not include any material described in section 552(b) of
23 this title. If the agency is permitted by law to rely on, and
24 does rely on, such material in promulgating a rule, the
25 agency shall include in such file a statement noting the exist-

1 ence of any such material and the statutory basis upon which
2 the material is exempt from public disclosure. Notwithstand-
3 ing the preceding sentence, the file shall include all material
4 described in subparagraph (D) or (E) of paragraph (1).

5 “(3) No court shall hold unlawful or set aside an agency
6 rule because of a violation of subparagraph (D) or (E) of
7 paragraph (1) of this subsection unless the court finds that
8 such violation has precluded fair public consideration of a ma-
9 terial issue of the rulemaking taken as a whole. Judicial
10 review of compliance or noncompliance with subparagraphs
11 (D) and (E) of paragraph (1) of this subsection shall be limited
12 to review of action or inaction on the part of an agency.

13 JUDICIAL REVIEW

14 SEC. 202. Section 706 of title 5, United States Code, is
15 amended to read as follows:

16 **“§ 706. Scope of review**

17 “(a) To the extent necessary to decision and when pre-
18 sented, the reviewing court shall independently decide all rel-
19 evant questions of law, interpret constitutional and statutory
20 provisions, and determine the meaning or applicability of the
21 terms of an agency action. The reviewing court shall—

22 “(1) compel agency action unlawfully withheld or
23 unreasonably delayed; and

24 “(2) hold unlawful and set aside agency action,
25 findings, and conclusions found to be—

1 “(A) arbitrary, capricious, an abuse of discre-
2 tion, or otherwise not in accordance with law;

3 “(B) contrary to constitutional right, power,
4 privilege, or immunity;

5 “(C) in excess of statutory jurisdiction, au-
6 thority, or limitations, or short of statutory right;

7 “(D) without observance of procedure re-
8 quired by law;

9 “(E) unsupported by substantial evidence in
10 a proceeding subject to sections 556 and 557 of
11 this title or otherwise reviewed on the record of
12 an agency hearing provided by statute; or

13 “(F) unwarranted by the facts to the extent
14 that the facts are subject to trial de novo by the
15 reviewing court.

16 “(b) In making the foregoing determinations, the court
17 shall review the whole record or those parts of it cited by a
18 party, and due account shall be taken of the rule of prejudi-
19 cial error.

20 “(c) In deciding questions of law pursuant to the follow-
21 ing sentences of this subsection, the court shall exercise its
22 independent judgment without according any presumption in
23 favor of or against agency action. In making determinations
24 on questions of law, other than statutory jurisdiction, the
25 court shall give the agency’s interpretation such weight as it

1 warrants, taking into account factors such as the discretion-
2 ary authority provided to the agency by law. In making de-
3 terminations of law concerning statutory jurisdiction under
4 subsection (a)(2)(C) of this section, the court shall determine
5 whether the agency's action is within the scope of the agen-
6 cy's jurisdiction on the basis of the language of the statute or,
7 in the event of ambiguity, other indicia of ascertainable legis-
8 lative intent.

9 “(d) In determining whether agency action in adopting a
10 rule, other than a rule to which subsection (a)(2)(E) of this
11 section applies, is arbitrary, capricious, an abuse of discre-
12 tion, or otherwise not in accordance with law, the court shall
13 consider whether there is substantial support in the rulemak-
14 ing file, viewed as a whole, for determinations of fact on
15 which the agency was required to rely in adopting the rule or
16 which the agency asserted as the basis for the rule.”.

17 APPEALS OF AGENCY ORDERS

18 SEC. 203. (a) Section 2112(a) of title 28, United States
19 Code, is amended by striking out the last three sentences and
20 inserting in lieu thereof the following: “If proceedings are
21 instituted in two or more courts of appeals with respect to
22 the same order, the court in which the agency, board, com-
23 mission, or officer concerned is to file the record shall be
24 determined as follows:

1 “(1) If within ten days after issuance of the order
2 the agency, board, commission, or officer receives writ-
3 ten notice, in a manner that the agency shall prescribe
4 by rule, that proceedings have been instituted in two or
5 more courts of appeals, the agency, board, commission,
6 or officer shall, promptly after the expiration of that
7 ten-day period, so inform the Administrative Office of
8 the United States Courts and shall identify each such
9 court in which such proceedings are pending. As soon
10 as is practicable after receiving such notice, the Ad-
11 ministrative Office of the United States Courts shall
12 designate one court, according to a system of random
13 selection, from among those identified by the agency,
14 board, commission, or officer, and the record shall be
15 filed in the court so designated.

16 “(2) If within ten days after issuance of the order
17 the agency, board, commission, or officer has received
18 written notice, as provided in the rules prescribed pur-
19 suant to paragraph (1) of this subsection, that proceed-
20 ings have been instituted in only one court of appeals,
21 the record shall be filed in that court notwithstanding
22 the institution of any proceedings in any other court of
23 which such written notice was not received by the
24 agency, board, commission, or officer within that ten-
25 day period.

1 “(3) In all other cases, the record shall be filed in
2 the court in which proceedings with respect to the
3 order were first instituted.

4 All courts in which proceedings have been instituted with
5 respect to the same order, other than the court in which the
6 record is filed pursuant to this subsection, shall transfer those
7 proceedings to the court in which the record is so filed. For
8 the convenience of the parties in the interest of justice, the
9 court in which the record is filed may thereafter transfer all
10 the proceedings with respect to that order to any other court
11 of appeals. Until the record concerning an order is filed in a
12 court pursuant to this subsection, any court of appeals in
13 which proceedings with respect to that order have been insti-
14 tuted within ten days after the issuance of such order may, to
15 the extent authorized by law, postpone the effective date of
16 the order as necessary to permit the designation of a court
17 pursuant to paragraph (1) of this subsection. Such action by
18 the court may thereafter be modified, revoked, or extended
19 by the court in which the record is filed or by any other court
20 of appeals to which the proceedings are transferred.”.

21 (b) Section 604(a) of title 28, United States Code, is
22 amended by redesignating paragraph (18) as paragraph (19)
23 and by inserting immediately after paragraph (17) the follow-
24 ing new paragraph:

1 “(18) Where proceedings with respect to an order
2 of any agency, board, commission, or officer have been
3 instituted in two or more courts of appeals and the
4 agency, board, commission, or officer, pursuant to sec-
5 tion 2112(a)(1) of this title, has been notified of such
6 proceedings within ten days after issuance of the order,
7 administer a system of random selection to determine
8 the appropriate court in which the record is to be
9 filed;”.

10 PARTICIPATION EXPENSES

11 SEC. 204. (a) Subchapter I of chapter 5 of title 5,
12 United States Code, is amended by adding at the end thereof
13 the following new section:

14 **“§ 505. Participation expenses**

15 “(a) No agency may, except as provided in section 504
16 of this title or unless specifically authorized by any other stat-
17 ute, provide financial assistance to pay the expenses of per-
18 sons participating or intervening in an agency proceeding.

19 “(b) For the purposes of this section—

20 “(1) ‘agency’ means an agency as defined in sec-
21 tion 551(1) of this title; and

22 “(2) ‘agency proceeding’ means any agency pro-
23 ceedings as defined in section 551(12) of this title.”.

1 (b) The section analysis of chapter 5 of title 5, United
2 States Code, is amended by inserting after the item relating
3 to section 504 the following new item:

“505. Participation expenses.”.

4 CONGRESSIONAL REVIEW PROCEDURES

5 SEC. 205. (a) Part I of title 5 of the United States Code
6 is amended by inserting after chapter 7 the following new
7 chapter:

8 **“CHAPTER 8—CONGRESSIONAL REVIEW OF**
9 **AGENCY RULEMAKING**

“Sec.

“801. Definitions; applicability of chapter.

“802. Resolution of disapproval.

“803. Resolution for reconsideration.

“804. Procedure for consideration of resolutions.

“805. Computation of days of continuous session of Congress.

“806. Effect on judicial review.

10 **“§ 801. Definitions; applicability of chapter**

11 **“(a) For purposes of this chapter—**

12 **“(1) the term ‘agency’ means an agency as de-**
13 **defined in paragraph (1) of section 551 of this title,**
14 **except that such term includes the functions set forth**
15 **in subparagraph (H) of such paragraph;**

16 **“(2) the term ‘rule’ means a rule as defined in**
17 **section 551(5) of this title;**

18 **“(3) the term ‘rulemaking’ means rulemaking as**
19 **defined in section 551(5) of this title;**

20 **“(4) the term ‘ratemaking proceeding’ means**
21 **agency process for the approval or prescription for the**

1 future of rates, wages, corporate or financial struc-
2 tures, or reorganizations thereof, prices, facilities, ap-
3 pliances, services, or allowances therefor, or of valu-
4 ations, costs, or accounting or practices relating to
5 such rates, wages, structures, prices, appliances, serv-
6 ices, or allowances; and

7 “(5) the term ‘promulgation’ means the filing of a
8 final rule with the Office of the Federal Register for
9 publication.

10 “(b)(1) ~~Sections 802 and 803 of this title do not apply~~
11 ~~to—~~

12 “(A) a rule of particular applicability;

13 “~~(B) a rule involving a military or foreign affairs~~
14 ~~function of the United States;~~

15 “(C) a rule relating to agency management or
16 personnel practices;

17 “(D) a rule describing the organization, procedure,
18 or practice requirements of an agency;

19 “(E) an interpretative rule or a rule prescribing
20 general statements of policy unless such rule has gen-
21 eral applicability and substantially alters or creates
22 rights or obligations of persons outside the agency pro-
23 mulgating the rule;

24 “(F) a rule promulgated on the basis of a rate-
25 making proceeding;

1 “(G) a rule relating to monetary policy promulgat-
2 ed by the Board of Governors of the Federal Reserve
3 System; or

4 “(H) a rule subject to section 431 of the General
5 Education Provisions Act.

6 “(2) Section 802 of this title does not apply to a rule
7 with respect to which an agency for good cause finds (and
8 incorporates the finding and a brief statement of reasons
9 therefor in the rule promulgated) that the delay in placing the
10 rule into effect which would result from the application of
11 section 802 of this title is impracticable, unnecessary, or con-
12 trary to the public interest.

13 ██

14 “(a)(1) Each agency, after promulgating a rule to which
15 this section applies, shall submit such rule to the Congress
16 for review in accordance with this section. Such rule shall be
17 delivered to each House of the Congress on the same date
18 and to each House of the Congress while it is in session.

19 “(2)(A) Except as provided in subparagraph (B), a rule
20 submitted under paragraph (1) may not take effect if—

21 “(i) either House of the Congress adopts a resolu-
22 tion described in paragraph (3) relating to such rule
23 before the end of the period of 60 calendar days of
24 continuous session of the Congress beginning on the
25 date of submission of the rule; and

1 “(ii) if such a resolution is adopted in such period,
2 such a resolution is not disagreed to by the other
3 House of Congress before the end of the period of 65
4 calendar days of continuous session of the Congress be-
5 ginning on such date.

6 “(B) If before the end of the applicable period under
7 clause (i) or (ii) of subparagraph (A) either House of the Con-
8 gress disagrees to a resolution described in paragraph (3) re-
9 lating to a rule submitted under paragraph (1), such rule shall
10 take effect on the day after the date of disagreement or on
11 such later date as the rule may specify.

12 “(C) For purposes of subparagraphs (A) and (B), a
13 House of the Congress disagrees to a resolution if on the vote
14 to agree to the resolution it fails to agree to the resolution.

15 “(3) The resolution referred to in paragraph (2) is a res-
16 olution the matter after the resolving clause of which is as
17 follows: “That the disapproves the rule pro-
18 mulgated by dealing with the matter of
19 , which rule was submitted to the Congress
20 on .’, the first blank being filled with the
21 House of the Congress in which the resolution is introduced,
22 the second blank being filled with the name of the agency
23 promulgating the rule, the third blank being filled with the
24 title of the rule and such further description as may be neces-

1 sary to identify it, and the fourth blank being filled with the
2 date of submission of the rule to the Congress.

3 “(b)(1) An agency may not promulgate a new rule iden-
4 tical to one disapproved under subsection (a) unless the
5 agency determines that a statute has been enacted after the
6 date of the disapproval affecting the agency’s powers with
7 respect to the subject matter of the rule.

8 “(2) If a rule of an agency is disapproved under subsec-
9 tion (a) and the agency, subject to paragraph (1), promulgates
10 a rule which relates to the same subject matter as the disap-
11 proved rule, such rule may be based, in whole or in part, on
12 the rulemaking record of the disapproved rule.

13 “(3) An agency after promulgating a rule under para-
14 graph (2) shall submit the rule to the Congress in accordance
15 with subsection (a).

16 “(c) If a rule which was promulgated subject to a statu-
17 tory time limit for rulemaking is disapproved under subsec-
18 tion (a), the statutory time limit shall apply also to the rule-
19 making begun as a result of the disapproval of the rule and
20 shall begin on the date on which the rule was disapproved.

21 ~~§ 303. Resolution for reconsideration~~

22 “(a) Either House of the Congress may adopt a resolu-
23 tion directing agency reconsideration of a rule which is in
24 effect. The matter after the resolving clause of such a resolu-
25 tion shall be as follows: ‘That the directs

1 to reconsider its rule dealing with the matter
2 of which rule is found at .',
3 the first blank being filled with the House of the Congress in
4 which the resolution is introduced, the second blank being
5 filled with the name of the agency promulgating the rule, the
6 third blank being filled with the title of the rule and such
7 further description as may be necessary to identify it, and the
8 fourth blank being filled with the citation to the rule in the
9 agency records.

10 “(b) If a resolution for reconsideration is adopted by a
11 House of the Congress under subsection (a) with respect to a
12 rule, the agency which promulgated the rule shall—

13 “(1) publish a notice in the Federal Register stat-
14 ing that the agency has reviewed the rule and deter-
15 mined that no agency action with respect to the rule is
16 required; or

17 “(2) initiate such rulemaking proceedings respect-
18 ing the rule as the agency determines are appropriate
19 to respond to the resolution.

20 “(c)(1) If a resolution for reconsideration is adopted by a
21 House of the Congress with respect to a rule which was not
22 subject to section 802 because of section 801(b)(2) and if the
23 agency which promulgated the rule published a notice under
24 subsection (b)(1) stating that no agency action would be taken
25 with respect to the rule, the agency shall submit the rule to

1 the Congress for review in accordance with section 802.
2 Such rule shall be delivered to each House of the Congress
3 on the same date and on the first date following the date of
4 the publication of the notice under subsection (b)(1) on which
5 the Congress is in session. Such rule shall stay in effect
6 unless—

7 “(A) either House of the Congress adopts a reso-
8 lution described in section 802(a)(3) relating to such
9 rule before the end of the period of 60 calendar days of
10 continuous session of the Congress beginning on the
11 date of submission of the rule; and

12 “(B) if such a resolution is adopted in such period,
13 such a resolution is not disagreed to by the other
14 House of Congress before the end of the period of 65
15 calendar days of continuous session of the Congress be-
16 ginning on such date.

17 “(2) If a resolution for reconsideration is adopted by a
18 House of the Congress with respect to a rule and if the
19 agency which promulgated the rule promulgated another rule
20 on the basis of rulemaking proceedings described in subsec-
21 tion (b)(2), the rule subject to the resolution for reconsider-
22 ation shall continue in effect during the pendency of the
23 review under section 802 of the rule so promulgated. If the
24 rule so promulgated does not take effect because a resolution
25 of disapproval is adopted, the agency which promulgated the

1 rule subject to the resolution for reconsideration may contin-
2 ue such rule in effect.

3 “(d) Any rule promulgated on the basis of rulemaking
4 proceedings described in subsection (b)(2) shall not be subject
5 to the provisons of subchapter II of chapter 6 of this title.

6 **“§ 804. Procedure for consideration of resolutions**

7 “(a) The provisions of this section are enacted by the
8 Congress—

9 “(1) as an exercise of the rulemaking power of the
10 Senate and the House of Representatives, respectively,
11 and as such they are deemed a part of the rules of
12 each House, respectively, but applicable only with re-
13 spect to the procedure to be followed in such House in
14 the case of resolutions described in sections 802 and
15 803 of this title, and such provisions supersede other
16 rules only to the extent that they are inconsistent with
17 such other rules; and

18 “(2) with full recognition of the constitutional
19 right of either House of the Congress to change the
20 rules (so far as relating to the procedure of such
21 House) at any time, in the same manner and to the
22 same extent as in the case of any other rule of such
23 House.

24 “(b)(1)(A) Except as provided in subparagraph (B), reso-
25 lutions of disapproval described in section 802 of this title

1 and resolutions for reconsideration described in section 303 of
2 this title shall, upon introduction, be referred immediately by
3 the presiding officer of the Senate or of the House, in accord-
4 ance with the rules of the respective House, to the standing
5 committee having primary legislative responsibility with re-
6 spect to the subject matter of the rule to which the resolution
7 relates.

8 “(B) If such presiding officer determines that more than
9 one standing committee has primary legislative responsibility
10 with respect to the subject matter of the rule involved, then
11 the presiding officer shall—

12 “(i) determine which such committee is the most
13 appropriate committee for consideration of the resolu-
14 tion, and refer the resolution only to such committee;
15 or

16 “(ii) appoint, with the approval of the Senate or
17 the House, as the case may be, a special ad hoc com-
18 mittee for consideration of the resolution, naming
19 Members from among the membership of each commit-
20 tee which has such primary legislative responsibility.

21 “(2) If a committee to which a resolution of disapproval
22 of a rule described in section 802 of this title is referred does
23 not report the resolution before the end of the period of 45
24 calendar days of continuous session of the Congress begin-
25 ning on the date of referral, it shall be in order to move to

1 discharge the committee from further consideration of the
2 resolution.

3 “(3)(A)(i). A motion to discharge described in paragraph
4 (2) shall be in writing and presented to the Secretary of the
5 Senate or the Clerk of the House, as the case may be.

6 “(ii) In the case of a major rule (other than a major rule
7 relating to public property, loans, grants, benefits, or con-
8 tracts)—

9 “(I) the motion to discharge may be presented
10 under clause (i) after the period of 7 calendar days of
11 continuous session of the Congress beginning on the
12 date of referral of the resolution to the committee in-
13 volved; and

14 “(II) the motion may be called up only if the
15 motion has been signed by one-fifth of the Members of
16 the Senate or the House, as the case may be.

17 “(iii) In the case of a rule which is not subject to clause
18 (ii)—

19 “(I) the motion to discharge may be presented
20 under clause (i) after the period of 3 calendar days of
21 continuous session of the Congress beginning on the
22 date of such a referral; and

23 “(II) the motion may be called up only if the
24 motion has been signed by 34 Members of the Senate
25 or 150 Members of the House, as the case may be.

1 “(iv) For purposes of this subparagraph, the term ‘major
2 rule’ has the meaning given it in subsections (a)(6) and (b)(2)
3 of section 621 of this title.

4 “(B) In the House, the motion to discharge shall be
5 placed in the custody of the Clerk, who shall arrange a con-
6 venient place for the signature of Members. Upon receiving
7 the required number of signatures, the motion shall be en-
8 tered in the Journal of the House and shall be printed (to-
9 gether with a listing of the Members signing the motion) in
10 the Congressional Record. A signature may be withdrawn by
11 a Member in writing at any time before the motion is entered
12 in the Journal.

13 “(C) A motion to discharge—

14 “(i) is privileged in the House and in the Senate;

15 “(ii) shall not be subject to any intervening
16 motion, except a motion to postpone to a day certain
17 (which shall not be subject to amendment) and a
18 motion to lay on the table; and

19 “(iii) may not be made after the committee in-
20 volved has reported a resolution of disapproval or a
21 resolution for reconsideration with respect to the same
22 rule.

23 “(D) In the House, a motion to discharge shall be voted
24 upon in the 5-day period of continuous session of the Congress
25 beginning on the day after the date on which the motion is

1 printed in the Record, and the Speaker, in his discretion,
2 shall determine on which day in such period the motion shall
3 be entertained. Debate or a motion to discharge shall be lim-
4 ited to not more than one hour, the time to be divided in the
5 House equally between those favoring and those opposing the
6 motion to discharge and to be divided in the Senate equally
7 between, and controlled by, the majority leader and the mi-
8 nority leader or their designees. An amendment to the motion
9 is not in order, and it is not in order to move to reconsider
10 the vote by which the motion is agreed to or disagreed to.

11 “(c)(1) Except as provided in paragraphs (2) and (3),
12 consideration of a resolution of disapproval or a resolution for
13 reconsideration shall be in accordance with the rules of the
14 Senate and of the House, respectively.

15 “(2)(A) When a committee of the Senate has reported or
16 has been discharged from further consideration of a resolution
17 with respect to a rule, it shall be in order at any time thereaf-
18 ter (even though a previous motion to the same effect has
19 been disagreed to) to move to proceed to the consideration of
20 the resolution.

21 “(B)(i) When a committee of the House has reported a
22 resolution with respect to a rule, the resolution shall be re-
23 ferred to the Regulatory Review Calendar in accordance
24 with clause 1 of rule XIII of the Rules of the House.

23 “(1) continuity of session is broken only by an ad-
24 jourment sine die; and

1 “(2) the days on which either House is not in ses-
 2 sion because of an adjournment of more than 10 days
 3 to a day certain are excluded in the computation.

4 “(b) If an adjournment sine die of the Congress occurs
 5 after an agency has submitted a rule under section 802(a)(1)
 6 of this title and before the expiration of the applicable period
 7 specified in such section, the agency shall—

8 “(1) resubmit such rule to the Congress; or

9 “(2) initiate rulemaking proceedings to amend or
 10 repeal such rule.

11 If the rule is resubmitted or an amended rule is submitted,
 12 the periods specified in section 802(a)(2) of this title shall
 13 begin on the date of such resubmission or submission.

14 **“§ 806. Effect on judicial review**

15 “Congressional inaction on or rejection of a resolution of
 16 disapproval or of a resolution for reconsideration of a rule
 17 under this chapter shall not be deemed an expression of ap-
 18 proval of such rule.”.

19 (b) The table of chapters for part I of title 5 is amended
 20 by inserting immediately after

“7. Judicial Review..... 701”

21 the following:

“8. Congressional Review of Agency Rulemaking..... 801”.

22 (c)(1) Clause 1 of rule XIII of the Rules of the House of
 23 Representatives is amended by striking out “three” and in-